

**TITLE 8  
OVERLAY DISTRICTS**

***SUBTITLE 1. PUBLIC USE OVERLAY DISTRICTS***

***PART I. DEFINITIONS; OVERVIEW***

**§ 8-101. “Governmental use” defined.**

In this subtitle, “governmental use” means any of the following, publicly owned facilities:

- (1) educational and cultural facilities, such as schools, libraries, and museums;
- (2) recreational facilities, such as parks, athletic fields, and recreation buildings;
- (3) service facilities, such as fire and police stations, water filtration plants, landfills, and pumping stations; and
- (4) health service facilities.

**§ 8-102. Design.**

The public use district classification is designed to designate those parcels that are owned by the City, the State, or the Federal Government and on which some governmental use either exists or is contemplated, such as a school or park. The intent is to clearly define areas of public ownership and provide a formal method of public notification for either acquisition or sale of these properties.

**§ 8-103. Council approval required.**

These districts must be approved as such by an amendment to this article.

**§ 8-104. Classification.**

Properties so classified retain their existing zoning classification with the addition of the suffix “P”.

**§§ 8-105 to 8-106. *{Reserved}***

***PART II. GENERAL REQUIREMENTS***

**§ 8-107. In general.**

In addition to the general provisions of Title 3 {“General Rules”} of this article, the following provisions apply to Public Use Districts.

**§ 8-108. Use regulations.**

- (a) *Permitted uses.*

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Permitted uses are governmental uses otherwise permitted by this article for the underlying district.

(b) *Conditional uses.*

Conditional uses are conditional governmental uses otherwise allowed by this article for the underlying district.

**§ 8-109. Bulk regulations.**

The bulk regulations set forth in this article for each underlying district apply to properties under the public use classification.

**§ 8-110. Off-street parking.**

Off-street parking spaces must be provided in accordance with Title 10 {"Off-Street Parking Regulations"} of this article as it applies to the underlying district.

**§ 8-111. Signs.**

Signs are allowed only in accordance with Title 11 {"Sign Regulations"} of this article as it applies to the underlying district.

**§§ 8-112 to 8-113. {Reserved}**

### *PART III. ADMINISTRATION*

**§ 8-114. Proposed amendments.**

All amendments proposed under this title must be reviewed in accordance with Title 16 {"Legislative Authorizations"} of this article. In addition, the Planning Commission must consider the proposed amendment in relation to the Master Plan.

**§ 8-115. Sale of property.**

Before property with a public use designation is sold, an amendment must be enacted to eliminate the public classification, subject to the requirements of Title 16 {"Legislative Authorizations"} of this article.

***SUBTITLE 2. FLOOD PLAIN OVERLAY DISTRICT***

***PART I. DEFINITIONS; OVERVIEW***

**§ 8-201. Definitions.**

(a) *In general.*

In this subtitle, the following terms have the meanings indicated.

(b) *Flood plain.*

“Flood plain” means:

- (1) any area shown as a flood plain on the flood plain maps; and
- (2) any other area that:
  - (i) is a relatively flat or low land area;
  - (ii) adjoins a river, stream, or watercourse; and
  - (iii) is subject to partial or complete inundation.

(c) *Flood plain maps.*

“Flood plain maps” means the series of maps and profiles known as the Flood Insurance Study, effective March 15, 1978, prepared for the Department of Housing and Urban Development, Federal Insurance Administration, as revised effective March 16, 1983, for the Federal Emergency Management Agency, Flood Insurance Administrator, and as later revised or amended.

**§ 8-202. Design.**

The Flood Plain Overlay District regulates the placement and use of structures and the use of land in the flood plain, with a design towards:

- (1) protecting human life and health;
- (2) minimizing damage to public and private property;
- (3) preventing or minimizing future flood damage;
- (4) protecting the public water supply and sanitary sewage disposal systems;
- (5) preserving natural drainage systems; and
- (6) reducing financial burdens imposed on Baltimore City and its citizens.

**§ 8-203. Districts established.**

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(a) *In general.*

Six flood plain districts, each designating a measurable degree of flood hazard, are provided, as delineated on the flood plain maps and described in this section.

(b) *Floodway.*

The Floodway, which is the area of highest hazard, is that part of the Flood Plain Overlay District that is required to carry and discharge the waters of the 100-year flood without increasing the water surface elevation at any point more than 1 foot above existing conditions.

(c) *Floodway Fringe.*

The Floodway Fringe comprises those lands within the Flood Plain Overlay District that:

- (1) are subject to flooding by the 100-year flood; and
- (2) lie beyond the Floodway, in areas for which detailed study data and profiles are available.

(d) *Approximated Flood Plain.*

The Approximated Flood Plain comprises those lands within the Flood Plain Overlay District that:

- (1) are subject to flooding by the 100-year flood; and
- (2) lie in areas for which a detailed study has not been performed but for which a 100-year flood plain boundary has been approximated.

(e) *Harbor Flood Zone.*

The Harbor Flood Zone comprises those lands within the Flood Plain Overlay District that:

- (1) are subject to flooding by a 100-year flood; and
- (2) lie adjacent to the Harbor (Patapsco River).

(f) *Shallow Flood Zone.*

The Shallow Flood Zone is an area within the Flood Plain Overlay District in which:

- (1) 100-year flood depths from 1 to 2 feet occur;
- (2) a clearly defined channel does not exist;
- (3) the path of flooding is unpredictable; and
- (4) velocity flow might be evident.

(g) *Coastal Hazard Zone.*

The Coastal Hazard Zone comprises those coastal lands within the Flood Plain Overlay District that are subject to inundation from high velocity waters and wave action.

**§§ 8-204 to 8-205. {Reserved}**

*PART II. GENERAL REQUIREMENTS*

**§ 8-206. In general.**

In addition to the general provisions of Title 3 {"General Rules"} of this article, the following provisions apply to Flood Plain Overlay Districts.

**§ 8-207. Use regulations — generally.**

(a) *In general.*

- (1) Except in the Floodway, all uses in a Flood Plain Overlay District are as otherwise specified in this article for the underlying district.
- (2) In addition to the requirements of Title 14 {"Conditional Uses"} of this article, conditional uses in a Flood Plain Overlay District are subject to the standards and procedures contained in § 8-213 {"Conditional uses and variances"} of this subtitle.

(b) *Floodway.*

The only uses allowed in the Floodway are the following recreational facilities, but not including accessory buildings:

- (1) Athletic fields.
- (2) Golf courses.
- (3) Parks.
- (4) Lacrosse and soccer fields.

**§ 8-208. Use regulations — public utility and government services.**

Notwithstanding any other provision to the contrary, no public utility or government service use may be located in any flood plain if it:

- (1) might impede, retard, or change the direction of the flow of water;
- (2) will catch or collect debris carried by the water; or
- (3) is placed where the natural flow of the stream or flood waters would carry it downstream to the damage or detriment of any public or private property in or adjacent to the flood plain.

**§ 8-209. Bulk Regulations.**

The bulk regulations set forth in this article for each underlying district apply to properties in the Flood Plain Overlay District.

**§§ 8-210 to 8-211. {Reserved}**

*PART III. ADMINISTRATION*

**§ 8-212. Proposed amendments.**

Amendments to the Flood Plain Overlay District maps must be reviewed and approved by:

- (1) the Department of Planning; and
- (2) the Federal Emergency Management Agency or its designee.

**§ 8-213. Conditional uses and variances.**

(a) *Additional standards.*

- (1) In addition to the requirements of Title 14 {"Conditional Uses"} and Title 15 {"Variances"} of this article, the additional standards specified in paragraph (2) of this subsection apply to any conditional use or variance that involves any substantial improvement or new construction in a Flood Plain Overlay District.
- (2) All conditional uses and variances described in paragraph (1) of this subsection are subject to the following additional standards:
  - (i) the conditional use or variance will not result in increased flood heights or additional danger to the public health, welfare, or safety;
  - (ii) the proposal is consistent with the need to minimize flood damage;
  - (iii) all necessary permits have been received from the appropriate State and federal agencies;
  - (iv) all public and private utilities and facilities (including sewer, water, telephone, electric, gas, etc.) are located and constructed to minimize or eliminate flood damage;
  - (v) adequate drainage is provided to reduce exposure to flood hazard; and
  - (vi) the conditional use or variance is necessary because of extraordinary circumstances in local conditions that render the application of certain standards a severe hardship.

(b) *Warning letters.*

If the Board grants a conditional use or variance under this section, the Executive Secretary must attach to the Board Resolution a warning that:

- (1) construction of a structure located below the base flood level will result in increased premium rates for flood insurance; and
- (2) construction below the base flood level increases risks to life and property.

**§ 8-214. Municipal and personal liability.**

A zoning authorization for property that is near a delineated flood plain or near any other land later discovered to be a flood plain:

- (1) is not a representation, guarantee, or warranty of any kind that the property is not in a flood plain; and
- (2) may not be used to impose any liability on Baltimore City, its elected or appointed officials, or its employees.

***SUBTITLE 3. CRITICAL AREA OVERLAY DISTRICT***

***PART I. DEFINITIONS; OVERVIEW***

**§ 8-301. Definitions.**

(a) *In general.*

In this subtitle, the following terms have the meanings indicated.

(b) *Buffer.*

(1) *In general.*

“Buffer” means any land within 100 feet of the mean high waterline of tidal streams, tributary streams, and tidal wetlands.

(2) *Configuration; filling.*

For purposes of configuring the Critical Area Buffer, the 100 feet landward of the mean high waterline is measured at the 2-foot contour as it existed on December 4, 1987. All new lands created as a result of filling after January 4, 1988, become additional buffer areas, and the buffer line configured before the filling remains unchanged for purposes of determining buffer offset requirements.

(c) *Critical Area.*

“Critical Area” means all parts of the Chesapeake Bay Critical Area, as delineated in and modified by the City in accordance with § 8-1807 of the State Natural Resources Article, that fall within City boundaries.

(d) *Critical Area Management Program.*

“Critical Area Management Program” means the Baltimore City Critical Area Management Program, as approved by the Chesapeake Bay Critical Area Commission and adopted by Resolution of the Mayor and City Council of Baltimore.

(e) *Development.*

“Development” means any one or combination of the following:

- (1) construction, reconstruction, modification, or expansion of structures;
- (2) placement of fill;
- (3) dredging;
- (4) drilling;



- (5) mining;
- (6) grading;
- (7) paving;
- (8) land excavation;
- (9) land clearing;
- (10) land improvement; or
- (11) storage of materials.

(f) *Significant development.*

“Significant development” means any development that would:

- (1) disturb 5,000 or more square feet of land in the Buffer;
- (2) disturb 10,000 or more square feet of land in the Critical Area;
- (3) result in any disturbance, caused by use, development, or destruction of vegetation, to land in an area designated under the Critical Area Management Program as a Habitat Protection Area; or
- (4) involve an expenditure for improvements to the property equal to or greater than 50% of the assessed value of the property, as certified by the Department of Planning.

(g) *Water-dependent facilities.*

(1) *In general.*

“Water-dependent facilities” means land uses or structures that:

- (i) are associated with industrial, maritime, recreational, educational, or fisheries activities;
- (ii) require a location within the Buffer near the shoreline; and
- (iii) are dependent on the water by reason of the intrinsic nature of their operation.

(2) *Inclusions.*

“Water-dependent facilities” include:

- (i) ports;

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- (ii) intake and outfall structures of power plants;
- (iii) water-use industries;
- (iv) marinas and other boat-docking structures;
- (v) public beaches and water-oriented recreation areas; and
- (vi) fisheries.

### (3) *Exclusions.*

“Water-dependent facilities” do not include private piers unless they are part of a subdivision that provides community piers.

### **§ 8-302. Design.**

The Critical Area Overlay District is designed to foster more sensitive, consistent, and uniform development and redevelopment activity along the City’s shoreline areas of the Chesapeake Bay and its tributaries, so as to minimize damage to water quality and natural or established habitats for the benefit of current and future generations.

### **§ 8-303. Critical Area and Buffer.**

#### (a) *Critical Area.*

The State Chesapeake Bay Critical Area law (Title 8, Subtitle 18 of the State Natural Resources Article) requires that the City designate as its Critical Area an area that, at a minimum, extends 1,000 feet from the head of tide (as indicated on the State Wetlands Maps) along its entire length of shoreline.

#### (b) *Buffer.*

The State regulations that implement the Critical Area Law require that the City also designate, as the Critical Area Buffer, the land area extending 100 feet from the mean high water lines.

### **§ 8-304. Development Areas.**

#### (a) *In general.*

The State regulations that implement the Critical Area Law also require that the City designate “Development Areas” within the Critical Area, based generally on existing development patterns and densities.

#### (b) *Types designated.*

The 3 types of Development Areas specified in the Critical Area Management Program are:

- (1) Resource Conservation Area.
- (2) Waterfront Revitalization Area.
- (3) Waterfront Industrial Area.

**§ 8-305. Boundaries.**

- (a) *As delineated on maps.*

The Critical Area Buffer and Development Area boundaries are delineated on a series of maps maintained by the Baltimore City Department of Planning. These maps may be periodically revised with the approval of the Planning Commission and the Chesapeake Bay Critical Area Commission.

- (b) *Other depictions illustrative only.*

Any other representation of the Critical Area or its Development Areas, regardless of the source of publication, are illustrative only and may not be used for determining any of the development requirements or restrictions required in this subtitle or by the Baltimore City Critical Area Management Program.

**§§ 8-306 to 8-307. {Reserved}**

*PART II. GENERAL REQUIREMENTS*

**§ 8-308. In general.**

In addition to the general provisions of Title 3 {“General Rules”} of this article, the following provisions apply to Critical Area Overlay District.

**§ 8-309. General use regulations.**

- (a) *Permitted uses.*

Permitted uses are as set forth in Part III of this subtitle for each type of Development Area.

- (b) *Conditional uses.*

Conditional uses are as set forth in Part III of this subtitle for each type of Development Area.

- (c) *Nonconforming uses.*

Any expansion made after January 3, 1988, to a nonconforming use in the Critical Area Overlay District must comply with the development requirements of Section III of the Critical Area Management Program if the Department of Planning determines it to be a significant development.

**§ 8-310. Prohibited uses.**

(a) *Within Critical Area.*

Except as specified in subsection (c) of this section, the following uses are prohibited within the Critical Area:

- (1) Solid or hazardous waste collection or disposal facilities.
- (2) Sanitary landfills.

(b) *Within Buffer.*

Except as specified in subsection (c) of this section, the following additional uses are prohibited within the Buffer:

- (1) Storage facilities for toxic or hazardous substances (as those terms are used in Title 5 of the State Labor and employment Article) or nutrients (that is, elements or compounds essential as raw material for organic growth and development; for example, carbon, nitrogen, and phosphorus).
- (2) Open storage facilities for any bulk solid or semi-solid material that is a toxic or hazardous substance or nutrient or that becomes one when left to stand or exposed to water.
- (3) Sand or gravel operations.
- (4) Cement plants.
- (5) Chemical plants.
- (6) As specified in § 3-107 {"Prohibited uses"} of this article.

(c) *Exceptions.*

The prohibitions in subsections (a) and (b) of this section do not apply if:

- (1) on recommendation of the Department of Planning, the Board finds that:
  - (i) there is no environmentally acceptable alternative outside the Critical Area; and
  - (ii) the use is needed to correct an existing water quality or wastewater management problem; and
- (2) for any new use that constitutes a significant development or for any expansion of a nonconforming use, a best management practices plan that will achieve a net improvement in water quality is submitted and implemented as a requirement of the Critical Area review process.

**§ 8-311. Water-dependant facilities within Buffer.**

Water-dependent facilities are allowed in the Buffer only if:

- (1) the use meets a recognized private right or public need;
- (2) adverse effects on water quality and on fish, plant, and wildlife habitats are minimized;
- (3) all associated non-water-dependent uses and structures are located outside the Buffer; and
- (4) the facilities meet the requirements of the Critical Area Management Program and the Critical Area Development Manual.

**§ 8-312. Public utility and government services.**

Notwithstanding any other provision to the contrary, every significant development of public utilities or governmental services within the Critical Area is subject to the special requirements and restrictions of the Critical Area Management Program.

**§ 8-313. Abandoned uses.**

Any use that is discontinued for 12 consecutive months:

- (1) is considered abandoned; and
- (2) may not be reestablished in the Critical Area unless, on recommendation of the Department of Planning, the Board finds that the use complies with the Critical Area Management Program.

**§ 8-314. Bulk regulations.**

The standards set forth in this article for each underlying district apply to properties in the Critical Area Overlay District.

**§§ 8-315 to 8-316. {Reserved}**

*PART III. DEVELOPMENT AREA REQUIREMENTS*

**§ 8-317. Resource Conservation Area.**

*(a) Permitted uses within Critical Area.*

In a Resource Conservation Area within the Critical Area but outside the Buffer, permitted uses are as follows:

Open space and public recreational, cultural, and educational facilities.

*(b) Permitted uses within Buffer.*

In a Resource Conservation Area within the Buffer, permitted uses are as follows:

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Water-dependent facilities for public use, subject to the provisions of § 8-311 {“Water-dependent facilities within Buffer”} of this subtitle.

(c) *Accessory and conditional uses within Critical Area.*

In a Resource Conservation Area within the Critical Area or Buffer, accessory and conditional uses are as follows:

None.

**§ 8-318. Waterfront Revitalization Area.**

(a) *Permitted, accessory, and conditional uses within Critical Area.*

In a Waterfront Revitalization Area within the Critical Area but outside the Buffer, permitted, accessory, and conditional uses are as follows:

As otherwise provided in this article for the underlying district, subject to the provisions of § 8-310 {“Prohibited uses”} of this subtitle.

(b) *Permitted, accessory, and conditional uses within Buffer.*

In a Waterfront Revitalization Area within the Buffer, permitted, accessory, and conditional uses are as follows:

As otherwise provided in this article for the underlying district, subject to the provisions of § 8-310 {“Prohibited uses”} and § 8-311 {“Water-dependent facilities within Buffer”} of this subtitle.

**§ 8-319. Waterfront Industrial Area.**

(a) *Permitted, accessory, and conditional uses within Critical Area.*

In a Waterfront Industrial Area within the Critical Area but outside the Buffer, permitted, accessory, and conditional uses are as follows:

As otherwise provided in this article for the underlying district, subject to the provisions of § 8-310 {“Prohibited uses”} of this subtitle.

(b) *Permitted, accessory, and conditional uses within Buffer.*

In a Waterfront Industrial Area within the Buffer, permitted, accessory, and conditional uses are as follows:

As otherwise provided in this article for the underlying district, subject to the provisions of § 8-310 {“Prohibited uses”} and § 8-311 {“Water-dependent facilities within Buffer”} of this subtitle.

**§§ 8-320 to 8-321. {Reserved}**

*PART IV. ADMINISTRATION*

**§ 8-322. Conditional uses and variances.**

(a) *In general.*

In addition to the requirements of Title 14 {"Conditional Uses"} and Title 15 {"Variances"} of this article, the standards and procedures of this section apply to any conditional use or variance in the Critical Area.

(b) *Findings — Planning Department.*

The Planning Department must find that:

- (1) special conditions or circumstances exist that are peculiar to the land or structure for which the application is made; and
- (2) a literal enforcement of the requirements of the Critical Area Management Program would result in unwarranted hardship.

(c) *Findings — Board.*

In addition, the Board must find that:

- (1) a literal interpretation of the Critical Area Management Program, the State Chesapeake Bay Critical Area law, or related regulations will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area;
- (2) the granting of a conditional use or variance will not confer on the applicant any special privilege that would be denied under the Critical Area Management Program, the Chesapeake Bay Critical Area law, or related regulations to other lands or structures within the Critical Area;
- (3) the application for the conditional use or variance:
  - (i) is not based on conditions or circumstances that are the result of the applicant's own actions; and
  - (ii) does not arise from any condition that relates to a land or building use, whether nonconforming or otherwise allowed, on any neighboring property;
- (4) the granting of a conditional use or variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitats within:
  - (i) the Critical Area;

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- (ii) a Resource Conservation Area; or
  - (iii) any other protected part of the State Chesapeake Bay Critical Area within a neighboring jurisdiction; and
- (5) the granting of a conditional use or variance will be in harmony with the general spirit and intent of the Critical Area Management Program, the State Chesapeake Bay Critical Area law, and related regulations.
- (d) *Application copies to Planning and Critical Area Commission.*

All applications for a conditional use or variance must be made in writing to the Board, and the Board must furnish copies of all applications to the Planning Department and the Chesapeake Bay Critical Area Commission.